

Original

Todd M. Friedman (216752)
Law Offices of Todd M. Friedman, P.C.
369 S. Doheny Dr. #415
Beverly Hills, CA 90211
Phone: 877 206-4741
Fax: 866 623-0228
tfriedman@attorneysforconsumers.com
Attorney for Plaintiff

FILED

JUN 24 2009

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND

E-filing

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

ADR

OAKLAND DIVISION

009-02819

JCS

JOSEPH RUFFALO

) Case No.

Plaintiff,

) COMPLAINT FOR VIOLATION

vs.

) OF FEDERAL FAIR DEBT

) COLLECTION PRACTICES ACT,

) ROSENTHAL FAIR DEBT

NCO FINANCIAL SYSTEMS, INC.

) COLLECTION PRACTICES ACT,

) AND INVASION OF PRIVACY

Defendant.

)

)

I. INTRODUCTION

1. This is an action for damages brought by an individual consumer for Defendant's violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, *et seq.* (hereinafter "FDCPA"), and the Rosenthal Fair Debt Collection Practices Act, Cal Civ Code § 1788, *et seq.* (hereinafter "RFDCPA"), both of

GU 44 SEC. N
NOTICE OF ASSIGNMENT
TO MAGISTRATE JUDGE SENT

1 which prohibit debt collectors from engaging in abusive, deceptive, and unfair
2 practices. Ancillary to the claims above, Plaintiff further alleges claims for
3 invasion of privacy arising from intrusion upon seclusion and public disclosure of
4 private facts.
5

6 7 **II. JURISDICTION**

8 2. Jurisdiction of this Court arises under 15 U.S.C. § 1692k(d).
9

10 **III. PARTIES**

11 3. Plaintiff, Joseph Ruffalo ("Plaintiff"), is a natural person residing in
12 Contra Costa county in the state of California, and is a "consumer" as defined by
13 the FDCPA, 15 U.S.C. § 1692a(3) and is a "debtor" as defined by Cal Civ Code
14 1788.2(h).
15

16 4. At all relevant times herein, Defendant, NCO Financial Systems,
17 Inc., ("Defendant") was a company engaged, by use of the mails and telephone, in
18 the business of collecting a debt from Plaintiff which qualifies as a "debt," as
19 defined by 15 U.S.C. §1692a(5), and a "consumer debt," as defined by Cal Civ
20 Code § 1788.2(f). Defendant regularly attempts to collect debts alleged to be due
21 another, and therefore is a "debt collector" as defined by the FDCPA, 15 U.S.C. §
22 1692a(6), and RFDCPA, Cal Civ Code § 1788.2(c).
23
24
25
26
27
28

IV. FACTUAL ALLEGATIONS

5. At various and multiple times prior to the filing of the instant complaint, including within the one year preceding the filing of this complaint, Defendant contacted Plaintiff in an attempt to collect an alleged outstanding debt. Defendant's conduct violated the FDCPA and the RFDCPA in multiple ways, including but not limited to:

a). Communicating with Plaintiff at times or places which were known or should have been known to be inconvenient for Plaintiff (§ 1692c(a)(1)), causing Plaintiff's telephone to ring repeatedly or continuously with intent to harass, annoy or abuse Plaintiff (§ 1692d(5)), communicating, by telephone or in person, with Plaintiff with such frequency as to be unreasonable and to constitute an harassment to Plaintiff under the circumstances (Cal Civ Code § 1788.11(e)), and causing a telephone to ring repeatedly or continuously to annoy Plaintiff (Cal Civ Code § 1788.11(d)), including calling Plaintiff multiple times a day and calling before 7:00 am, calling and hanging up on Plaintiff then calling right back and calling Plaintiff right back after he told Defendant he could not talk;

b). Failing to notify Plaintiff during each collection contact that the communication was from a debt collector (§ 1692e(11));

1 c). Failing to disclose the caller's individual identity in a telephone call
2 to Plaintiff (§ 1692d(6));
3

4 d). Communicating with Plaintiff other than in the name either of the
5 debt collector or the person on whose behalf the debt collector is acting (Cal Civ
6 Code § 1788.13(a)).
7

8 6. Defendant's aforementioned violations of the FDCPA and RFDCPA
9 also constitute an intentional intrusion into Plaintiff's private places and into
10 private matters of Plaintiff's life, conducted in a manner highly offensive to a
11 reasonable person. Plaintiff had a subjective expectation of privacy that was
12 objectively reasonable under the circumstances.
13
14

15 7. Defendant's aforementioned disclosure of facts regarding Plaintiff's
16 debt to third parties constitutes a public disclosure of a private fact not of
17 legitimate public concern. Defendant's disclosures were highly offensive to a
18 reasonable person.
19
20

21 8. As a result of the above violations of the FDCPA, RFDCPA and
22 invasion of privacy, Plaintiff suffered and continues to suffer injury to Plaintiff's
23 feelings, personal humiliation, embarrassment, mental anguish and emotional
24 distress, and Defendant is liable to Plaintiff for Plaintiff's actual damages,
25 statutory damages, and costs and attorney's fees.
26
27

28 **COUNT I: VIOLATION OF FAIR DEBT**

COLLECTION PRACTICES ACT

9. Plaintiff reincorporates by reference all of the preceding paragraphs.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays that judgment be entered against the Defendant for the following:

- A. Declaratory judgment that Defendant's conduct violated the FDCPA;
- B. Actual damages;
- C. Statutory damages;
- D. Costs and reasonable attorney's fees; and,
- E. For such other and further relief as may be just and proper.

**COUNT II: VIOLATION OF ROSENTHAL
FAIR DEBT COLLECTION PRACTICES ACT**

10. Plaintiff reincorporates by reference all of the preceding paragraphs.

11. To the extent that Defendant's actions, counted above, violated the RFDCPA, those actions were done knowingly and willfully

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays that judgment be entered against the Defendant for the following:

- A. Declaratory judgment that Defendant's conduct violated the RFDCPA;
- B. Actual damages;
- C. Statutory damages for willful and negligent violations;
- D. Costs and reasonable attorney's fees,
- E. For such other and further relief as may be just and proper.

COUNT III: COMMON LAW INVASION OF PRIVACY BY INTRUSION
AND INVASION OF PRIVACY BY PUBLICATION OF PRIVATE FACTS

12. Plaintiff reincorporates by reference all of the preceding paragraphs.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays that judgment be entered against the Defendant for the following:

- A. Actual damages
- B. Punitive Damages; and,
- C. For such other and further relief as may be just and proper.

1 **PLAINTIFF HEREBY REQUESTS A TRIAL BY JURY**

2 Respectfully submitted this 19th day of June, 2009.

3
4
5 By: s/Todd M. Friedman
6 **TODD M. FRIEDMAN (216752)**
7 **LAW OFFICES OF TODD M.**
8 **FRIEDMAN, P.C.**
9 **369 S. Doheny Dr. #415**
10 **Beverly Hills, CA 90211**
11 **Phone: 877 206-4741**
12 **Fax: 866 623-0228**
13 **tfriedman@attorneysforconsumers.com**
14 **Attorney for Plaintiff**
15
16
17
18
19
20
21
22
23
24
25
26
27
28